

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

KRISHNA MOTE,	:	
Petitioner	:	CIVIL ACTION NO. 1:21-720
v.	:	(JUDGE MANNION)
MIDDLE DISTRICT COURT OF PENNSYLVANIA,	:	
Respondent	:	

ORDER

Presently before the court is the Report and Recommendation (“Report”) of Magistrate Judge Susan E. Schwab. ([Doc. 9](#)). In it, Judge Schwab recommends denial of the petitioner Krishna Mote’s petition for a writ of mandamus. ([Doc. 1](#)). No objections to the Report have been filed.

Even where no objection is made, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” [Fed.R.Civ.P.72\(b\)](#) advisory committee notes; see also *Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part,

the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); M.D.Pa. Local Rule 72.31.

In her Report, Judge Schwab details the lengthy procedural background of this case and ultimately recommends that the court deny Mote's petition for a writ of mandamus because Mote cannot receive the type of relief he is seeking through such a writ. As Judge Schwab observes, Mote is essentially attempting to have this court set aside an earlier decision by this court, *Mote v. Murtin*, No. 4:07-cv-1571, 2008 WL 2761896 (M.D.Pa. Jul. 11, 2008), which dismissed Mote's earlier civil rights claim under the fugitive-disentitlement doctrine, and to reinstate his civil rights claim. Because Mote is seeking a writ of mandamus to force this court to reopen one of its own cases, which is an improper use of a writ of mandamus, Judge Schwab recommends denial of the petition.

Having conducted a thorough review of all pertinent filings, the court finds the Report of Judge Schwab to be well-reasoned and well-supported. As such, the court will adopt the Report in its entirety as the decision of the court.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

(1) Judge Schwab's Report, (Doc. 9), is ADOPTED IN ITS ENTIRETY;

(2) Mote's Petition for Writ of Mandamus, (Doc. 1), is

DENIED; and

(3) The Clerk of Court is directed to **CLOSE THIS CASE**.

s/ Malachy E. Mannion

MALACHY E. MANNION

United States District Judge

DATE: June 10, 2021

21-270-01